

AMENDED IN SENATE APRIL 13, 2005

**SENATE BILL**

**No. 762**

---

**Introduced by Senator Lowenthal**

February 22, 2005

---

An act to add Chapter 9.9 (commencing with Section ~~44299.87~~ 44299.88) to Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as amended, Lowenthal. Vehicular sources: California Intermodal Port Congestion and Environmental Quality.

Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to load or unload at the terminal.

This bill would ~~create the Los Angeles-Long Beach Area Intermodal Joint Powers Authority and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of~~ *establish* the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC), ~~respectively, which are also established by this bill.~~

This bill would ~~permit~~ *require* the LAIPC and OAIPC to perform specified functions, including, but not limited to, granting to each motor carrier a port permit for authority to enter a specific port for pick up or delivery of intermodal freight for ~~their~~ *its* truck fleet on the basis of a combined score, and determining the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange. *The bill would require the LAIPC and OAIPC to determine the application*

*of existing truck engine emission standards as a requirement for a permit, and would require each motor carrier issued a port permit to pay an annual fee, set by the LAIPC and OAIPC at an amount that does not exceed the actual costs of the respective commission. This bill would also make certain legislative findings and declarations relating to air pollution in port areas.*

This bill would make certain findings and declarations regarding the inapplicability of a general statute without the meaning of Section 16 of Article IV of the California Constitution.

This bill would impose a state-mandated local program by imposing additional duties on specific air quality management districts; *and certain other local governmental entities.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Air pollution in California is an ongoing problem that
- 4 impacts the health and safety of its residents.
- 5 (2) California ocean marine terminals are congested with long
- 6 lines forcing trucks to idle for extended periods of time. Idling
- 7 trucks emit air contaminants, including oxides of nitrogen,
- 8 carbon dioxide, and particulate matter.
- 9 (3) Many of the idling trucks contain engines that are exempt
- 10 from present emission standards. The air contaminants emitted
- 11 from these trucks significantly increase pollution and
- 12 dramatically reduce air quality in the area in and around the
- 13 ports.

(4) Many marine terminals and ports in California are close to residential areas and businesses frequented by the public. Many port truck drivers are forced to continue to drive old and environmentally harmful trucks because they are unable to afford to purchase a new truck. The lines of idling trucks are so long that many drivers wait upwards of four hours before receiving a load, preventing them from hauling more than two loads a day, leaving them in financial ruin.

(b) It is the intent of the Legislature to create the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC) to evaluate and regulate intermodal port traffic.

(c) It is further the intent of the Legislature to establish the Los Angeles-Long Beach Area Intermodal Joint Powers Authority to oversee the functions of the LAIPC and the Oakland Area Intermodal Joint Powers Authority to oversee the functions of the OAIPC.

SEC. 2. Chapter 9.9 (commencing with Section 44299.87) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 9.9. CALIFORNIA INTERMODAL PORT CONGESTION  
AND ENVIRONMENTAL QUALITY

Article 1. Los Angeles-Long Beach Area Regional Intermodal  
Port Congestion and Environmental Quality Commission

~~44299.87. The Los Angeles-Long Beach Area Intermodal Joint Powers Authority (LAJPA), a public entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and composed of the County of Los Angeles, the Cities of Los Angeles and Long Beach, and the South Coast Air Quality Management District, is hereby created for the exclusive purpose of overseeing the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission established pursuant to this article.~~

1 44299.88. (a) (1) The Los Angeles-Long Beach Area  
2 Regional Intermodal Port Congestion and Environmental Quality  
3 Commission (LAIPC) is hereby established.

4 (2) The commission shall be composed of 14 members, as  
5 follows:

6 (A) A representative of the South Coast Air Quality  
7 Management District.

8 (B) A representative of the City of Long Beach.

9 (C) A representative of the City of Los Angeles.

10 (D) A representative of the Port of Long Beach.

11 (E) A representative of the Port of Los Angeles.

12 (F) A representative of the shipping line industry to be  
13 nominated by the Pacific Merchant Shipping Association.

14 (G) A representative of labor representing ground  
15 transportation workers to be nominated by the California State  
16 Federation of Labor.

17 (H) A representative of labor representing workers inside port  
18 terminals to be nominated by the California State Federation of  
19 Labor.

20 (I) A representative of business that utilizes shipping services  
21 in the Port of Long Beach or *the* Port of Los Angeles to be  
22 nominated by the California Retailers Association.

23 (J) A representative of the trucking industry to be nominated  
24 by the California Trucking Association.

25 (K) A representative of an environmental organization that  
26 has, as a major focus, air quality issues to be nominated by \_\_\_\_.

27 (L) A representative of a community group from a community  
28 adjacent to the Port of Long Beach or the Port of Los Angeles to  
29 be nominated by \_\_\_\_.

30 (M) A member of the Los Angeles County Board of  
31 Supervisors.

32 (N) The Secretary of the Business, Transportation and  
33 Housing Agency or his or her designee, as an ex officio member.

34 (b) Except for the initial appointments to the LAIPC, each  
35 commission member, other than the exofficio member identified  
36 in subparagraph (N) of paragraph (2) of subdivision (a), or his or  
37 her designee, shall serve a four-year term, to be staggered so that  
38 approximately one-third of the appointments expire in each year.

39 A person may not be appointed to serve more than two

1 consecutive terms. The LAJPA shall appoint the initial members  
2 of the commission.

3 (c) In carrying out its duties and responsibilities the LAIPC  
4 may do all of the following:

5 (1) Meet at least once each quarter.

6 (2) Employ staff, including any clerical, legal, and technical  
7 assistance as may appear necessary.

8 (3) Establish advisory committees.

9 (4) Employ all other appropriate strategies necessary or  
10 convenient to enable it to fully and adequately perform its duties  
11 and exercise the powers expressly granted.

12 (d) The LAIPC shall develop and adopt member rules relating  
13 to conflicts of interest.

14 (e) The LAIPC shall be funded by port permit fees imposed  
15 upon motor carriers consistent with this article.

16 44299.89. (a) The LAIPC shall determine the number of  
17 intermodal truck trips that pass through the Port of Long Beach  
18 and the Port of Los Angeles on an average daily basis and the  
19 number of intermodal trucks needed to efficiently move  
20 intermodal freight from marine terminals to the first point of  
21 delivery, unloading, or interchange.

22 (b) The LAIPC shall ascertain the number of drivers necessary  
23 to make at least three round trips to and from the port. The  
24 LAIPC shall grant port permit authority consistent with  
25 subdivision (a) of Section 44299.90 so that the total number of  
26 trucks delivering intermodal freight to and from the port shall not  
27 exceed the number necessary for each truck to make at least three  
28 round trips to and from the port.

29 (c) The LAIPC shall develop a system to ensure that there are  
30 a sufficient number of trucks to meet short-term or peak demand.  
31 The LAIPC shall establish a system, consistent with  
32 environmental goals, to permit the transfer of vehicles or drivers  
33 between authorized motor carriers and the updating of fleets  
34 when new vehicles come into service or leave service.

35 44299.90. (a) Except as provided by subdivision (d), and  
36 consistent with requirements of Section 44299.89, the LAIPC  
37 shall grant to each motor carrier qualified under subdivision (b) a  
38 port permit for authority to enter a specific port to pick up or  
39 deliver intermodal freight for its truck fleet until the total fleet  
40 size determined pursuant to Section 44299.89 is reached. Each

1 motor carrier shall be required to make an application for a port  
2 permit pursuant to this section on behalf of any employee driver  
3 or owner-operator, whether the owner-operator operates under  
4 his or her own operating authority or operates as a subhauler  
5 under the operating authority of an overlying motor carrier. A  
6 motor carrier shall not require, as a condition of employment or  
7 dispatch, that an employee driver or owner-operator driver  
8 operating under the operating authority of the motor carrier pay  
9 for any portion of the cost of the port permit.

10 (b) The LAIPC shall grant a port permit to a motor carrier on  
11 the basis of a combined score derived from the following factors:

12 (1) The motor carrier's seniority of service in regularly  
13 delivering intermodal freight to and from the particular port.

14 (2) Satisfactory ratings on a biennial inspection of terminal  
15 report.

16 (3) The age of the motor carrier's fleet.

17 (4) Proof of adequate insurance, as established by the  
18 commission.

19 (5) Any other criteria the LAIPC shall establish.

20 (c) A port permit shall not be issued to a motor carrier if its  
21 fleet contains more than \_\_\_\_ percent of truck tractors older than  
22 the 1994 model year.

23 (d) Where casual drivers are needed to fulfill short-term or  
24 peak demand, those drivers may be dispatched from a hiring hall.

25 (e) Each motor carrier issued a port permit shall pay an annual  
26 fee of \_\_\_\_ dollars (\$ \_\_\_\_), to be used to fund the LAIPC. *The*  
27 *LAIPC shall set the fee at an amount that does not exceed the*  
28 *actual costs of the commission's operations.*

29 (f) A port permit shall be renewed ~~every \_\_\_\_ years~~ *on a*  
30 *periodic basis, as determined by the commission.*

31 44299.91. Each truck dispatched from a motor carrier that has  
32 been issued a port permit shall display an identification sticker  
33 authorizing the truck to enter the port. No truck may pick up or  
34 deliver freight at a particular port if that truck is not part of the  
35 fleet of a motor carrier that possesses a permit for that port.

36 44299.92. (a) The LAIPC may establish rules and regulations  
37 as necessary to implement the provisions of this article. The  
38 ~~LAIPC shall also establish fleet emissions rules and regulations~~  
39 *LAIPC shall also determine the application of existing truck*  
40 *emission standards as a requirement for a permit for trucks*

operating in and out of ports to reduce air emissions caused by the idling or queuing of trucks.

(b) For the purposes of this article, “motor carrier” means both a motor carrier for hire and a proprietary motor carrier.

Article 2. Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission

~~44299.93. The Oakland Area Intermodal Joint Powers Authority (OAJPA), a public entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and composed of the County of Alameda, the City of Oakland, and the Bay Area Air Quality Management District, is hereby created for the exclusive purpose of overseeing the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission established pursuant to this article.~~

44299.94. (a) (1) The Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC) is hereby established.

(2) The commission shall be composed of 12 members, as follows:

(A) A representative of the Bay Area Air Quality Management District.

(B) A representative of the City of Oakland.

(C) A representative of the Port of Oakland.

(D) A representative of the Alameda County Board of Supervisors.

(E) A representative of the shipping line industry to be nominated by the Pacific Merchant Shipping Association.

(F) A representative of labor representing ground transportation workers to be nominated by the California State Federation of Labor.

(G) A representative of labor representing workers inside port terminals to be nominated by the California State Federation of Labor.

(H) A representative of business that utilizes shipping services in the Port of Oakland to be nominated by the California Retailers Association.

1 (I) A representative of the trucking industry to be nominated  
2 by the California Trucking Association.

3 ~~(K)~~

4 (J) A representative of an environmental organization that has,  
5 as a major focus, air quality issues to be nominated by \_\_\_\_.

6 ~~(L)~~

7 (K) A representative of a community group from a community  
8 adjacent to the Port of Oakland to be nominated by \_\_\_\_.

9 ~~(M)~~

10 (K) The Secretary of the Business, Transportation and  
11 Housing Agency or his or her designee, as an ex officio member.

12 (b) Except for the initial appointments to the OAIPC, each  
13 commission member, other than the ex officio member identified  
14 in subparagraph ~~(M)~~ (L) of paragraph (2) of subdivision (a), or  
15 his or her designee, shall serve a four-year term, to be staggered  
16 so that approximately one-third of the appointments expire in  
17 each year. A person may not be appointed to serve more than two  
18 consecutive terms. The OAJPA shall appoint the initial members  
19 of the committee.

20 (c) In carrying out its duties and responsibilities the OAIPC  
21 may do all of the following:

22 (1) Meet at least once each quarter.

23 (2) Employ staff, including any clerical, legal, and technical  
24 assistance as may appear necessary.

25 (3) Establish advisory committees.

26 (4) Employ all other appropriate strategies necessary or  
27 convenient to enable it to fully and adequately perform its duties  
28 and exercise the powers expressly granted.

29 (d) The OAIPC shall develop and adopt member rules relating  
30 to conflicts of interest.

31 (e) The OAIPC shall be funded by port permit fees imposed  
32 upon motor carriers consistent with this article.

33 44299.95. (a) The OAIPC shall determine the number of  
34 intermodal truck trips that pass through the Port of Oakland on an  
35 average daily basis and the number of intermodal trucks needed  
36 to efficiently move intermodal freight from marine terminals to  
37 the first point of delivery, unloading, or interchange.

38 (b) The OAIPC shall ascertain the number of drivers necessary  
39 to make at least three round trips to and from the port. The  
40 OAIPC shall grant port permit authority consistent with



1 subdivision (a) of Section 44299.96 so that the total number of  
2 trucks delivering intermodal freight to and from the port shall not  
3 exceed the number necessary for each truck to make at least three  
4 round trips to and from the port.

5 (c) The OAIPC shall develop a system to ensure that there are  
6 a sufficient number of trucks to meet short-term or peak demand.  
7 The OAIPC shall establish a system, consistent with  
8 environmental goals, to permit the transfer of vehicles or drivers  
9 between authorized motor carriers and the updating of fleets  
10 when new vehicles come into service or leave service.

11 44299.96. (a) Except as provided by subdivision (d), and  
12 consistent with requirements of Section 44299.95, the OAIPC  
13 shall grant to each motor carrier qualified under subdivision (b) a  
14 port permit for authority to enter a specific port to pick up or  
15 deliver intermodal freight for its truck fleet until the total fleet  
16 size determined pursuant to Section 44299.95 is reached. Each  
17 motor carrier shall be required to make an application for a port  
18 permit pursuant to this section on behalf of any employee driver  
19 or owner-operator, whether the owner-operator operates under  
20 his or her own operating authority or operates as a subhauler  
21 under the operating authority of an overlying motor carrier. A  
22 motor carrier shall not require, as a condition of employment or  
23 dispatch, that an employee driver or owner-operator driver  
24 operating under the operating authority of the motor carrier pay  
25 for any portion of the cost of the port permit.

26 (b) The OAIPC shall grant a port permit to a motor carrier on  
27 the basis of a combined score derived from the following factors:

28 (1) The motor carrier's seniority of service in regularly  
29 delivering intermodal freight to and from the particular port.

30 (2) Satisfactory ratings on a biennial inspection of terminal  
31 report.

32 (3) The age of the motor carrier's fleet.

33 (4) Proof of adequate insurance, as established by the  
34 commission.

35 (5) Any other criteria the OAIPC shall establish.

36 (c) A port permit shall not be issued to a motor carrier if its  
37 fleet contains more than \_\_\_\_ percent of truck tractors older than  
38 the 1994 model year.

39 (d) Where casual drivers are needed to fulfill short-term or  
40 peak demand, those drivers may be dispatched from a hiring hall.

1 (e) Each motor carrier issued a port permit shall pay an annual  
2 fee of \_\_\_\_ dollars (\$ \_\_\_\_), to be used to fund the OAIPC. *The*  
3 *OAIPC shall set the fee at an amount that does not exceed the*  
4 *actual costs of the commission's operations.*

5 (f) A port permit shall be renewed ~~every \_\_\_\_ years~~ *on a*  
6 *periodic basis, as determined by the commission.*

7 44299.97. Each truck dispatched from a motor carrier that has  
8 been issued a port permit shall display an identification sticker  
9 authorizing the truck to enter the port. No truck may pick up or  
10 deliver freight at a particular port if that truck is not part of the  
11 fleet of a motor carrier that possesses a permit for that port.

12 44299.98. (a) The OAIPC may establish rules and  
13 regulations as necessary to implement the provisions of this  
14 article. ~~The OAIPC shall also establish fleet emissions rules and~~  
15 ~~regulations~~ *determine the application of existing truck emission*  
16 *standards as a requirement for a permit* for trucks operating in  
17 and out of ports to reduce air emissions caused by the idling or  
18 queuing of trucks.

19 (b) For the purposes of this article, “motor carrier” means both  
20 a motor carrier for hire and a proprietary motor carrier.

21 SEC. 3. The Legislature finds and declares that, due to the  
22 unique circumstances relating to air quality in the communities  
23 surrounding the Port of Los Angeles, the Port of Long Beach,  
24 and the Port of Oakland, a statute of general applicability cannot  
25 be enacted within the meaning of subdivision (b) of Section 16 of  
26 Article IV of the California Constitution.

27 SEC. 4. No reimbursement shall be made pursuant to Part 7  
28 (commencing with Section 17500) of Division 4 of Title 2 of the  
29 Government Code for costs mandated by the state pursuant to  
30 this act. It is recognized, however, that a local agency or school  
31 district may pursue any remedies to obtain reimbursement  
32 available to it under Part 7 (commencing with Section 17500)  
33 and any other provisions of law.